

AMENDED IN ASSEMBLY AUGUST 18, 2014

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN SENATE APRIL 21, 2014

**SENATE BILL**

**No. 1300**

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**Introduced by Senator Hancock**

(Principal coauthor: Assembly Member Skinner)

February 21, 2014

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An act to add ~~Section~~ *Sections 7872 and 7873* to the Labor Code, relating to refineries.

LEGISLATIVE COUNSEL'S DIGEST

SB 1300, as amended, Hancock. Refineries: turnarounds.

Existing law, the California Refinery and Chemical Plant Worker Safety Act of 1990, states that its purpose is to prevent or minimize the consequences of catastrophic releases of toxic, flammable, or explosive chemicals. The act provides for the adoption by the Occupational Safety and Health Standards Board of specified process safety management standards for, among others, refineries that handle acutely hazardous material. The act declares the intent of the Legislature for the standards board and the Division of Occupational Safety and Health to promote worker safety through implementation of training and process safety management, as defined, in refineries and other facilities as deemed appropriate. A violation of the act is a crime.

This bill would require every petroleum refinery employer to, every September 15, submit to the division a full schedule for the following calendar year of planned turnarounds, meaning a planned, periodic shutdown of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process

materials and equipment, as specified. The bill would also require a petroleum refinery employer, upon the request of the division, to provide access onsite and provide the division with specified documentation relating to a planned turnaround within a certain period of time, as provided. *The bill would, except in the case of a request for public release, require the division to protect from public disclosure any information submitted to the division pursuant to these provisions that is designated as a trade secret, as defined. The bill would require the division to notify a petroleum refinery employer in writing of a request for the release of information to the public that includes information that the petroleum refinery employer has notified the division is a trade secret, as provided. This bill would authorize an employer to seek a court order prohibiting public disclosure. The bill establishes misdemeanor penalties for knowingly and willfully disclosing trade secrets.*

Because a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 7872 is added to the Labor Code, to read:  
2     7872. (a) As used in this section, "turnaround" means a  
3     planned, periodic shutdown, total or partial, of a refinery process  
4     unit or plant to perform maintenance, overhaul, and repair  
5     operations and to inspect, test, and replace process materials and  
6     equipment. "Turnaround" does not include unplanned shutdowns  
7     that occur due to emergencies or other unexpected maintenance  
8     matters in a process unit or plant. "Turnaround" also does not  
9     include routine maintenance, where routine maintenance consists  
10    of regular, periodic maintenance on one or more pieces of  
11    equipment at a refinery process unit or plant that may require  
12    shutdown of such equipment.

1 (b) Every September 15, every petroleum refinery employer  
2 shall submit to the division a full schedule of planned turnarounds  
3 for all affected units for the following calendar year.

4 (c) At the request of the division, at least 60 days prior to the  
5 shutdown of a process unit or plant as part of a planned turnaround,  
6 a petroleum refinery employer shall provide access onsite and  
7 allow the division to review ~~and receive copies of, or, at the~~  
8 ~~division's discretion, submit in physical format or in electronic~~  
9 ~~format if available electronically;~~ the following documentation for  
10 the process unit or plant scheduled to be shut down for that  
11 turnaround:

12 (1) All corrosion reports and risk-based inspection reports  
13 generated since the last turnaround.

14 (2) Process hazard analyses generated since the last turnaround.

15 (3) Boiler permit schedules.

16 (4) All management of change records related to repairs, design  
17 modifications, and process changes implemented since the last  
18 turnaround or scheduled to be completed in the planned turnaround  
19 referenced in this subdivision and identified in subdivision (b).

20 (5) Work orders scheduled to be completed in the planned  
21 turnaround referenced in this subdivision and identified in  
22 subdivision (b).

23 (6) All temporary repairs made since the last turnaround,  
24 including, but not limited to, clamps and encapsulations. As used  
25 in this section, "temporary repairs" means repairs made to piping  
26 systems in order to restore sufficient integrity to continue safe  
27 operation until permanent repairs can be scheduled.

28 (7) *Notification and description of all repairs, design*  
29 *modifications, or process changes described in a corrosion report,*  
30 *risk-based inspection report, process hazard analysis, boiler permit*  
31 *schedule, management of change record, work order, or other*  
32 *document listed in paragraphs (1) to (6), inclusive, that the*  
33 *petroleum refinery employer has deferred to a subsequent*  
34 *operational period or turnaround.*

35 (d) The division may request additional information as necessary  
36 to perform its responsibilities in this part pursuant to Section 6314.

37 (e) At the request of the division, at least 30 days before the  
38 shutdown of a process unit or plant as part of a planned turnaround,  
39 a petroleum refinery employer shall provide access onsite and  
40 allow the division to review ~~and receive copies of, or, at the~~

1 ~~division's discretion, submit in physical format or in electronic~~  
2 ~~format if available electronically, notification and description of~~  
3 ~~any changes to the information or documents provided reviewed~~  
4 ~~by the division pursuant to subdivision (c) and relevant supporting~~  
5 ~~documents.~~

6 *(f) At the division's request, a petroleum refinery employer shall*  
7 *provide the division with physical copies, or, at the division's*  
8 *discretion, electronic copies if available, of the documentation*  
9 *reviewed by the division pursuant to subdivisions (c), (d), and (e).*

10 ~~(f)~~

11 *(g) By agreement with a petroleum refinery employer, the*  
12 *division may modify the reporting period as to any individual item*  
13 *of information.*

14 ~~(g)~~

15 *(h) This section is not intended to limit or increase the division's*  
16 *authority in Part 1 (commencing with Section 6300) to prohibit*  
17 *use of a place of employment, machine, device, apparatus, or*  
18 *equipment or any part thereof that constitutes an imminent hazard*  
19 *to employees.*

20 ~~(h)~~

21 *(i) The Legislature finds and declares that the purpose of this*  
22 *section is to improve the ability of the state to conduct inspections*  
23 *of petroleum refining operations.*

24 *SEC. 2. Section 7873 is added to the Labor Code, to read:*

25 *7873. (a) As used in this section, "trade secret" means a trade*  
26 *secret as defined in subdivision (d) of Section 6254.7 of the*  
27 *Government Code or Section 1061 of the Evidence Code, the*  
28 *schedule submitted to the division pursuant to subdivision (b) of*  
29 *Section 7872, and any other information regarding the scheduling,*  
30 *duration, and type of work to be performed during a turnaround*  
31 *that may provide economic value to any person other than the*  
32 *petroleum refinery employer. Upon completion of a turnaround,*  
33 *the dates on which that turnaround was conducted shall no longer*  
34 *be considered a trade secret.*

35 *(b) (1) If a petroleum refinery employer believes that*  
36 *information submitted to the division pursuant to Section 7872*  
37 *may involve the release of a trade secret, the petroleum refinery*  
38 *employer shall nevertheless provide this information to the division.*  
39 *The petroleum refinery employer may, at the time of submission,*  
40 *identify all or a portion of the information submitted to the division*

1 *as trade secret and, to the extent feasible, segregate records*  
2 *designated as trade secret from the other records.*

3 *(2) Subject to subdivisions (c), (d), and (e), the division shall*  
4 *protect from disclosure any information designated as a trade*  
5 *secret by the petroleum refinery employer pursuant to paragraph*  
6 *(1).*

7 *(c) (1) Upon the receipt of a request for the release of*  
8 *information to the public that includes information that the*  
9 *petroleum refinery employer has notified the division is a trade*  
10 *secret pursuant to paragraph (1) of subdivision (b), the division*  
11 *shall notify the petroleum refinery employer in writing of the*  
12 *request by certified mail, return receipt requested.*

13 *(2) The division shall release the requested information to the*  
14 *public 120 days or more after the petroleum refinery employer's*  
15 *receipt of the notice of the request for information, unless, before*  
16 *the expiration of the 120-day period, the petroleum refinery*  
17 *employer files an action in an appropriate court for a declaratory*  
18 *judgment that the information is subject to protection under*  
19 *subdivision (b), promptly notifies the division of that action, and*  
20 *obtains an order prohibiting disclosure of the information to the*  
21 *public.*

22 *(3) This subdivision shall not be construed to allow a petroleum*  
23 *refinery employer to refuse to disclose the information required*  
24 *pursuant to this section to the division.*

25 *(d) Except as provided in subdivision (c), any information that*  
26 *has been designated as a trade secret by a petroleum refinery*  
27 *employer is confidential information for purposes of this section*  
28 *and shall not be released to any member of the public, except that*  
29 *such information may be disclosed to other officers or employees*  
30 *of the division concerned with carrying out the purposes of the*  
31 *division or when relevant in any proceeding of the division. If the*  
32 *person requesting the release of the information or the person who*  
33 *submitted the information institutes a proceeding for injunctive*  
34 *or declaratory relief or a writ of mandate to order or prohibit*  
35 *disclosure of trade secret information, the person instituting the*  
36 *proceeding shall name the other party as a real party in interest.*  
37 *Each party shall bear its own costs and attorney's fees.*

38 *(e) This section shall not be construed to prohibit the exchange*  
39 *of properly designated trade secrets between local, state, or federal*

1 *public agencies when those trade secrets are relevant and*  
2 *necessary to the exercise of their authority.*

3 *(f) An officer or employee of the division who, by virtue of that*  
4 *employment or official position, has possession of, or has access*  
5 *to, confidential information, and who, knowing that disclosure of*  
6 *the information to the general public is prohibited by this section,*  
7 *knowingly and willfully discloses the information in any manner*  
8 *to a person he or she knows is not entitled to receive it, is guilty*  
9 *of a misdemeanor. A contractor with the division and an employee*  
10 *of the contractor, who has been furnished information as*  
11 *authorized by this section, shall be considered an employee of the*  
12 *division for purposes of this section.*

13 ~~SEC. 2.~~

14 *SEC. 3.* No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.